

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Florence and Comobabi, Arizona)

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MM Docket No. 00-107
RM-9891

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 29, 2000

Released: December 8, 2000

By the Chief, Allocations Branch:

1. The Commission considers herein the Notice of Proposed Rule Making ("Notice"), 15 FCC Rcd 9693 (2000), issued in response to a petition filed on behalf of Desert West Air Ranchers ("petitioner"), licensee of FM Station KCDX, Channel 276C1, Florence, Arizona, proposing the substitution of Channel 276C for Channel 276C1 at Florence and modification of its license accordingly. To accommodate the proposal, the Notice also proposed either the deletion of vacant reserved Channel *275A at Comobabi, Arizona, or its replacement with Channel *289A in the event an expression of interest in retaining a Class A reserved channel at that locality was received. Alternatively, the Notice advised that if it could be demonstrated that a channel is available to Comobabi in the reserved portion of the FM band, Channel *275A would be deleted without the allotment of a substitute channel. Petitioner filed supporting comments reiterating its intention to apply for Channel 276C at Florence and constructing the facility. No other comments were received.

2. In response to the Notice, petitioner advises that Channels 202A, 206A and 209A are available for application to serve Comobabi. Additionally, no expressions of interest in retaining a Class A channel allotment at Comobabi were received and therefore, we will delete Channel *275A, Comobabi without replacement.¹

¹ The reserved allotment was made to Comobabi over fifteen years ago, originally as Channel 276A, and subsequently modified to Channel *275A in MM Docket No. 95-127. While the Commission is generally reluctant to delete an allotment reserved for educational use, the channel has never been applied for at Comobabi, and, in any event other channels are now available in the noncommercial educational FM band for use at that locality.

3. In light of the above, we will substitute Channel 276C for Channel 276C1 at Florence, Arizona, since it would enable Station KCDX to provide an expanded FM service within its 1 mV/m signal coverage contour. Therefore, pursuant to the provisions of Section 1.420(g) of the Commission's Rules, we are modifying the license of Desert West Air Ranchers for Station KCDX to specify operation on Channel 276C in lieu of Channel 276C1 at Florence.

4. Channel 276C can be allotted to Florence at the petitioner's specified site located 46.8 kilometers (29.1 miles) southeast of the community at coordinates 32-48-45 NL and 110-57-30 WL, in conformity with the domestic minimum distance separation requirements of Section 73.207(b)(1) of the Commission's Rules. As Florence is located within 320 kilometers (199 miles) of the U.S.-Mexico border, Mexican concurrence has been requested for Channel 276C at Florence, as a specially negotiated, restricted allotment towards vacant Channel 276B, Cananea, Sonora, Mexico.² As final notification approval has not been received from the Mexican government, operation of Station KCDX with the facilities specified herein at Florence, is subject to modification, suspension, or termination without right to a hearing if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement, or if specifically objected to by the Mexican government.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 22, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Comobabi, Arizona	--
Florence, Arizona	276C

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Desert West Air Ranchers for Station KCDX, IS MODIFIED to specify operation on Channel 276C in lieu of Channel 276C1, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

² Channel 276C at Florence will be limited to 3.16 kW ERP at 474 meters HAAT in the direction of Channel 276B, Cananea.

- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m), any party seeking a change in community of license of a television or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Desert West Air Ranchers, licensee of Station KCDX, is required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade at Florence, Arizona.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau